

**IN THE UNITED STATES BANKRUPTCY COURT
Eastern District of Virginia
Richmond Division**

**In re: Brian Wirt Bartlett
Debtor**

**Case No. 18-31079-KRH
Chapter 13**

**RESPONSE AND LIMITED OBJECTION TO MOTION FOR AUTHORITY TO
EXAMINE THE DEBTOR PURSUANT TO RULE 2004 OF THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE**

COMES NOW, Brian Wirt Bartlett (the “Debtor” or “Mr. Bartlett”), by and through counsel, and files the following Response and Limited Objection to the Motion for Authority to Examine the Debtor Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (“Motion”) filed by Tracy Wills Bartlett (the “Movant”) and in support thereof state as follows:

1. Although Rule 2004 Examinations are generally freely granted, the Debtor files this response in order to illuminate the Court as to certain facts regarding the relationship and proceedings between the parties. This response is intended as a limited objection.
2. The Debtor filed a Chapter 13 bankruptcy case with this Court on March 5, 2018. A Chapter 13 plan was filed on March 7, 2018 and confirmed by Order of the Court on May 15, 2018.
3. The Movant was properly listed in the Debtor’s initial filings as a codebtor on two secured debts, timely providing the Movant with the notice of filing.

4. The Debtor and Movant are married, though separated. Their divorce is currently pending, and a trial is scheduled for November 28, 2018 in the state court. The parties have not entered into any property settlement agreements or other stipulations, and require the state court to make all determinations, as they have not been able to agree upon any terms.
5. Upon information and belief, the Movant has had numerous opportunities to conduct discovery throughout the divorce proceedings.
6. Based upon the interactions between the Movant and the Debtor, the Debtor sought and obtained a protective order against the Movant, which was entered by the Amelia County Juvenile and Domestic Relations District Court on September 11, 2017, and extends through May 1, 2019.
7. The Debtor asserts that, upon information and belief, the Movant is utilizing the Rule 2004 Examination as a means to circumvent the discovery deadlines and limitations in the divorce proceeding, as well as to intimidate and harass him.
8. Although Rule 2004 Examinations can certainly be broad in scope, there nonetheless should be a basis for the request. The Movant has not stated a sufficient basis for the request. As Debtor's plan has been confirmed without objection, and the Movant is not a creditor in this case, Debtor affirmatively asserts there is insufficient basis to request a Rule 2004 Examination.
9. Movant has not specified any basis for the necessity of additional information, especially given her unique circumstances in having already proceeded with discovery through the divorce proceedings, as well as, upon information and

belief, being personally informed as to much of the Debtor's financial and personal circumstances, having been married to him.

10. Debtor requests that should the Court be inclined to grant the Movant's Motion that the examination be scheduled following the conclusion of the divorce proceedings, to ensure that the examination is not being used to circumvent the discovery deadlines in the divorce proceedings.

11. Debtor further requests that should the Court be inclined to grant the Movant's Motion, that the examination be scheduled in the Federal Courthouse, due to safety concerns, and that the Movant be barred from the building and surrounding areas for the duration of the examination, in compliance with the restraining order.

WHEREFORE, for the reasons stated herein, Debtor respectfully requests that the Court schedule a hearing on the Motion, deny the Motion, or in the alternative, set limitations as requested herein, and grant other relief as deemed just.

Brian Wirt Bartlett

By: /s/ Amanda Erin DeBerry
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CERTIFICATE OF SERVICE

I certify that on October 2, 2018 I have transmitted a true copy of the foregoing document electronically through the Court's CM/ECF system to Paul Curley, counsel for Movant, and Suzanne Wade, Chapter 13 Trustee.

/s/ Amanda Erin DeBerry
Counsel for Debtor